

Christopher Ellis Bouzy
184 Main Street #3
Lodi, NJ 07644
(212) 810-0830
Debtor in Possession

BANKRUPTCY COURT
FILED
NEWARK, NJ

9 SEP 17 P 12:47

JEANNE A. NAUGHTON
[Signature]
DEPUTY CLERK

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY --- NEWARK**

-----X
:
In re :
:
:
Christopher Ellis Bouzy :

**Chapter 7
Case No. 19-25881**

Christopher Ellis Bouzy :
:
:
Debtor :
-----X

To:
Nicholas Fitzgerald
649 Newark Avenue
Jersey City, NJ 07306

Nicole Cemelli
782 5th Street
Secaucus, NJ 07094

John Sywilok, Trustee
John W. Sywilok LLC
51 Main Street
Hackensack, NJ 07601

**RESPONSE IN OPPOSITION TO NICOLE CEMELLI'S MOTION FOR RELIEF
FROM THE AUTOMATIC STAY**

TO THE HONORABLE VINCENT F. PAPALIA,
UNITED STATES BANKRUPTCY JUDGE:

Christopher Ellis Bouzy in the above-captioned
chapter 7 case, as the **Debtor** in possession, submit this objection (this **Objection**) to *Nicole
Cemelli's motion for relief from the automatic stay* (the "**Motion**").

PRELIMINARY STATEMENT

1. Service of the Motion from relief of stay wasn't properly served. The motion was mailed with an erroneous zip code and the Debtor didn't receive the motion. The court clerk's office notified the Debtor of the motion on 9/10/2019, less than 20 days from the scheduled hearing.
2. Answering Paragraph 3 of the Motion, it is denied the Debtor and Jennifer Harrison paid \$1,100 for May and June rent, the correct amount is \$1350. See Exhibit A.
3. The Debtor and Jennifer Harrison withheld 50% of the rent as a result of the movant, Nicole Cemelli, not disclosing the apartment building is located in a flood zone which is required by New Jersey statute (N.J. Stat. Ann. §46:8-50). Moreover, three flood area warning signs were removed from the parking lot to conceal the fact the apartment building is located in a flood zone. See Exhibit B.
4. The Debtor and Jennifer Harrison withheld 50% of the rent as a result of the movant not disclosing the apartment building wasn't wired for cable, broadband internet, or telephone although the apartment was advertised as cable ready. See Exhibit C. Communication cables were non-existent, and it took Verizon approximately three months to connect service to the building. The Debtor is a software engineer and mostly works from home, and broadband internet is crucial for the Debtor to complete his work.

5. At the time of executing the lease on 4/8/2019, the movant didn't possess the Certificate of Occupancy. In towns where certificates of occupancy are required, a dwelling rented without a certificate of occupancy constitutes an illegal contract (260 N.J.S. 79). See Exhibit D.

6. Answering Paragraph 7 of the Motion, it is denied the Debtor is playing games with the court or attempting to buy more time. The debtor attempted to negotiate a settlement with the movant days before filing chapter 7. The movant refused several fair offers to settle the matter and the Debtor was left with no other alternative but to seek the legal protections under chapter 7. See Exhibit E.

7. The movant has willfully violated the automatic stay provisions of 11 U.S.C § 362(a) of the Bankruptcy Code on three separate occasions, and the violation could affect the outcome of the Motion. The Debtor is filing a cross motion requesting damages for violating the automatic stay.

THE STAY RELIEF MOTION SHOULD BE DENIED

8. The Motion from relief of stay wasn't served in accordance with the Bankruptcy Code and contains fatal errors. The movant has an absolute obligation to make sure that its motion papers are properly prepared and conform to the Bankruptcy Code as well as local rules and chamber's rules.

9. The movant knowingly entered into an illegal contract, and the movant is now petitioning the Court for relief to lift the automatic stay to continue the eviction process on an illegally rented apartment. The movant has the initial burden to establish that cause exists, and the movant cannot satisfy her burden of establishing cause sufficient to truncate the statutorily imposed breathing spell to which the Debtor is entitled under U.S.C § 362(a) of the Bankruptcy Code.

CONCLUSION

WHEREFORE the Debtor respectfully request that the Court deny the Motion and the relief requested therein or in the alternative adjourn the motion for sixty days while the movant refiles the motion in accordance with the bankruptcy code, and show cause for the willful violation of the automatic stay provisions of 11 U.S.C § 362(a) of the Bankruptcy Code

Christopher Ellis Bouzy
184 Main Street #3
Lodi, NJ 07644
(212) 810-0830
Debtor in Possession

Exhibit A -- Rent Payments

| | | | | |
|------------------------------------|-----------------------------|---------------------------------|---|------------|
| Sent Jun 1 2019 | Your Payment June | — | -\$1,350.00 | \$2,894.00 |
| Payer: Jennifer Harrison | | Type: One Time | Payment Method: ACH Transfer | |
| Memo: June | | Status: Completed | From Account: x-8678 TD BANK, NA checking | |
| Amount: \$1,350.00 | | Sent on: Jun 01, 2019 | Bank Statement: Will appear on your bank statement with the following information: • 'TBD' | |

| | | | | |
|--|---------------------|--------------------------------|---|------------|
| Due On Jun 1 2019 | Monthly Rent | \$2,700.00 | — | \$4,244.00 |
| Requested By: Nicole Cemelli | | Due on: Jun 01, 2019 | | |
| Memo: Rent | | Type: Recurring | | |
| Amount Due: \$2,700.00 | | | | |

| | | | | |
|--|----------------------------------|--------------------------------|---|------------|
| Due On May 24 2019 | Bill Court Filing Fees | \$59.00 | — | \$1,544.00 |
| Requested By: Nicole Cemelli | | Due on: May 24, 2019 | | |
| Memo: Court Filing Fees | | Type: One Time | | |
| Amount Due: \$59.00 | | | | |

| | | | | |
|---|---------------------------------------|--------------------------------|---|------------|
| Due On May 7 2019 | Bill Late Fee (5%) - May... | \$135.00 | — | \$1,485.00 |
| Requested By: Nicole Cemelli | | Due on: May 07, 2019 | | |
| Memo: Late Fee (5%) - May Rent | | Type: One Time | | |
| Amount Due: \$135.00 | | | | |

| | | | | |
|-------------|--------------------------|---|-------------|------------|
| Sent | Your Auto Payment | — | -\$1,350.00 | \$1,350.00 |
|-------------|--------------------------|---|-------------|------------|

Get help

| | | | | |
|-------------|------------------------------------|---------------------------------|---|------------|
| Sent | Your Payment | — | -\$1,350.00 | \$2,894.00 |
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| | | | | |
|-------------|--------------------------|---|-------------|------------|
| Sent | Your Auto Payment | — | -\$1,350.00 | \$1,350.00 |
|-------------|--------------------------|---|-------------|------------|

[Get help](#)

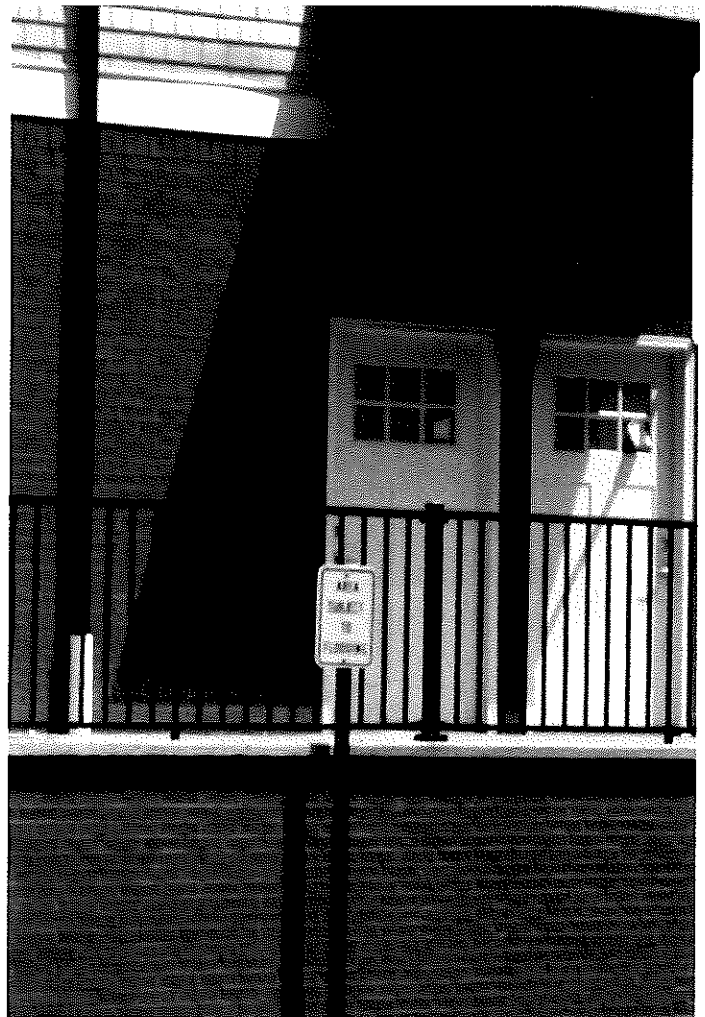
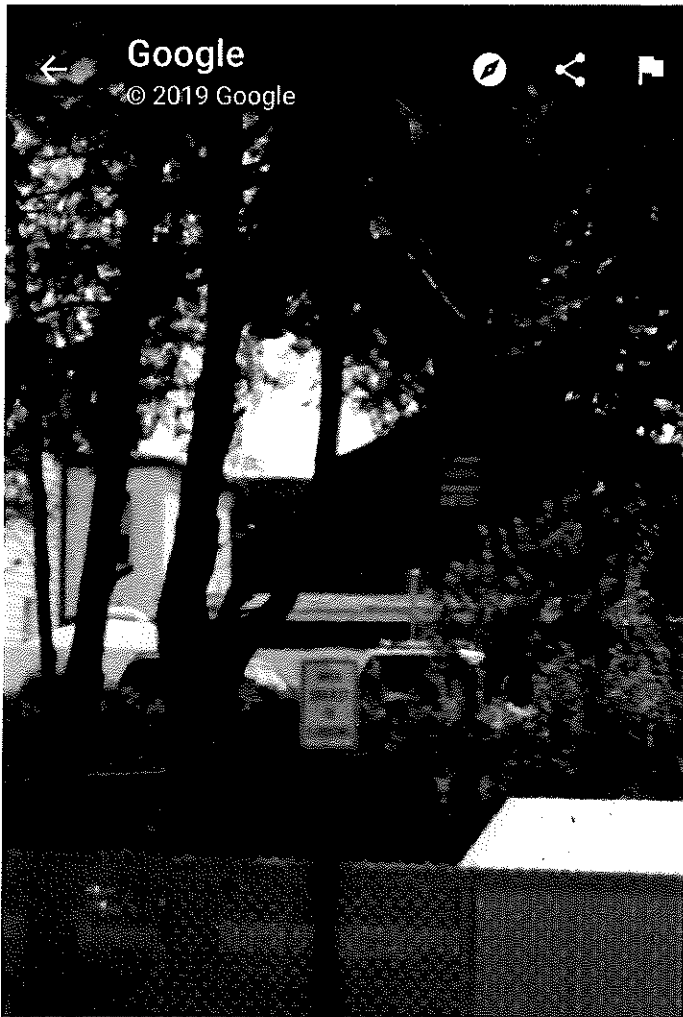
Exhibit B -- Photos of Flood Area Signs



BEFORE

Document Page 9 of 21

BEFORE



AFTER



AFTER



Exhibit C -- Apartment Listing

184 Main St Description

Check out 184 Main St. Offering 2 to 3 bedroom floorplans. From pricing to features, the professional leasing team will assist you in finding the perfect new place. At 184 Main St you'll feel right at home. Stop by the community today.

184 Main St Apartments is located in the [07644](#) Zip code of the [Hackensack Teaneck](#) Neighborhood in [Lodi, NJ](#).

Amenities and Features

Interior Features

- Wheelchair Accessible (Rooms)
 - Sprinkler System
 - Cable Ready
 - Washer/Dryer
-

Exhibit D -- Certificate of Occupancy

This Certificate is to serve as notice that based on a general inspection the premises described herein is approved for continued occupancy

Property Address: 184 Main Street

Owner's Name: NICOLE CEMELLI

Owner's Address: 782 5TH. STREET

SECAUCUS, NJ 07094

Owner's Phone #: 201-240-9360

Property Type: Multi-Family

2ND FL/APT #3

| | | | | | |
|-----------|---|------------|---|-----------|---|
| Bedrooms: | 3 | Bathrooms: | 2 | Kitchens: | 1 |
|-----------|---|------------|---|-----------|---|

Tenant's Phone #: 212-810-0830

| | | | |
|--------------|---|----------------|---|
| # of Adults: | 2 | # of Children: | 1 |
|--------------|---|----------------|---|

Adult Tenant's Name(s): CHRISTOPHER BOUZY, JENNIFER HARRISON

Child Tenant's Name(s): NORA HARRISON

Date Issued: 4/29/2019 Issued By: GP
Certificate #: 1115

Nicholas Melf – Zoning Officer

- Fee Paid: 50.00

Exhibit E -- Email Exchange Between Debitor and Movant



Christopher Bouzy <cbouzy@gmail.com>

Settlement Offer

Christopher <cbouzy@gmail.com>
To: Nicole Cemelli <ncemelli@gmail.com>

Thu, Aug 1, 2019 at 2:17 PM

Hello Nicole,

Later this month we go back to court, and I hope after several weeks of contentiousness and legal actions we can finally come to a settlement. If you are willing to soften your position, I would be willing to soften mine as well. Here is our settlement offer:

All late fees waived.

May payment: \$675 (We already paid \$1350)

June payment: \$675 (We already paid \$1350)

July payment: \$2700

August payment: \$2700

Total that we will pay to you: \$6750

No adjustments to the lease.

We both spent money on legal fees, so we will each have to absorb that cost.

One other thing you should know about regarding the apartment. The electric bill is unusually high, close to \$300 a month. PSE&G already made an adjustment to the bill because they acknowledged the bill shouldn't be that high. However, they said it's possible our meter connects to another apartment, or the two hot water heaters in the apartment is causing the bill to be that high.

Best,
Christopher



Christopher Bouzy <cbouzy@gmail.com>

Settlement Offer

Nicole Cemelli <ncemelli@gmail.com>
To: Christopher <cbouzy@gmail.com>

Tue, Aug 6, 2019 at 2:51 PM

Christopher,

The total you owe me in unpaid rent, late fees, and legal fees is \$11,555. This is the amount of the lien that I would have. The breakdown is below.

| | |
|---------------------|------------------|
| May | 1,350.00 |
| May Late Fees | 135.00 |
| May Late Fees | 980.00 |
| June | 1,350.00 |
| June Late Fees | 135.00 |
| June Late Fees | 960.00 |
| July Rent | 2,700.00 |
| August | 2,700.00 |
| Legal & Filing Fees | 1,245.00 |
| | |
| | |
| Total: | 11,555.00 |

I am hesitant, but would be willing to waive the \$2,210 in late fees. I would accept \$9,345. In addition, there would need to be a new lease since the old lease became void when Jennifer filed for bankruptcy.

For you to continue living in apartment 3, I will require the following conditions to be met:

1. Immediate payment of the owed, and agreed upon, settlement of \$9,345.
2. A new lease will be required. The lease term will be 6 months. I will add language so that you can sign that you are fully aware of the flood zone, etc. I will keep the rent at \$2,700/mo. for the 6 month term. Parking will no longer be included in the rent. Rent is never to be paid late or withheld. I will not be adding additional requests from you to the new lease. The lease will remain standard except for the addendum items I have mentioned.
3. There has been no damage to the apartment. I will need to inspect the apartment for damages or needed repairs. Purposefully caused damage to the property is a criminal offense.
4. For you to immediately discontinue being extremely difficult in every way you can possible think up, and for you to remain compliant with the lease terms without incessant argument after the fact.

Please keep in mind that although I am entertaining your motion for settlement, I will not stop or postpone the eviction process unless all requirements are met and fulfilled.

Regards,
Nicole

[Quoted text hidden]



Christopher Bouzy <cbouzy@gmail.com>

Settlement Offer

Christopher <cbouzy@gmail.com>
To: Nicole Cemelli <ncemelli@gmail.com>

Tue, Aug 6, 2019 at 9:09 PM

Hello Nicole,

Thank you for the response and I appreciate your counteroffer, but you are still too high. We had to pay attorney fees as well, it's an expense we are both going to have to absorb.

1. Under NJ law a judge will not award you \$1000+ in legal fees, especially since there is no provision in the lease for legal fees. More here: <https://www.lsnjlaw.org/Housing/Landlord-Tenant/Leases/Pages/Common-Lease-Terms.aspx>
2. You are now making the claim the lease is invalid because of the bankruptcy, are you sure that is the argument you want to make? Furthermore, I am still on the lease and I haven't filed for bankruptcy.
3. No judge will grant you the late fees you outlined, it will never happen.
4. Why would we agree to sign a new lease, pay you \$2700 a month, and it doesn't include parking? Do you really think we would pay you \$2700 a month, the highest rent in the building, and not have the best parking spots? Why do you even care about our parking spots? Is it the traffic cones? I put the traffic cones in our spots because random people were parking in our spots and then walking off for 30 minutes to an hour, and they were not viewing the apartments. It still happens, but they park in the other spots now. Besides, they are our spots. Now you are just being petty, like you were being petty with the mailbox names, stop being petty Nicole.
5. I told you months ago, no matter what happens, I would respect you and your property. It's offensive for you to suggest we would purposely damage or destroy your property because of a legal dispute. I have fixed stuff inside and outside of your building, without asking you for compensation. Who do you think pick up the trash around the property from random pedestrians who pass by and just throw things? Who do you think wipe down the mailboxes and door windows? Who do you think pull out the trash twice a week? Did you think the building kept itself clean? To be clear, we have never damaged nor would we damage your apartment or the building.
6. When someone pays you \$2700 a month, they expect a certain level of service. You seem to forget when we moved here there was no cable/internet, and that started us down this path. And if it wasn't for me, this building still wouldn't have cable/internet; you are welcome. The only other thing I have complained about was the lock, and you saw for yourself the lock was broken and you had it "fixed." Now that we have cable/broadband internet we are happy and we have no further complaints.
7. We are in a legal dispute because of your inability to accept responsibility and find a solution that we both could've been happy with. Instead, you had to prove you are the "boss" and take us to court when we were willing to find an amicable solution months ago. Even now, you fail to be reasonable because you have made this personal. Your stubbornness made this process more expensive than it needed to be; I hope you see that. The money you spent on attorney fees, you could've just gave us a reasonable discount.
8. My settlement offer was an olive branch to put this unpleasantness to rest so you can focus on whatever it is you do, and we can focus on our baby. It was also a way for you and I not to spend additional money on unnecessary attorney fees to end up with the same results; I rather pay you than pay an attorney. From day one when you threatened legal action, I told you it will not go the way you think, but you ignored me. After we outmaneuvered you in court, I tried to settle with you in court, and you ignored me again. We had a text exchange, and I tried to settle with you again, and once again you ignored me. Each time you have ignored me it has cost you more money and you are not getting the results you expect. Now for some bizarre reason you think we will go to court, you will get over \$11,000, and we will have to leave the apartment; that will never happen

Nicole. I wouldn't hire an attorney and go through this entire process only to lose and pay you over \$11,000.

9. I hope you understand all we have to do is pay the back rent and you cannot evict us, nor will we have to sign a new lease. We will not have to pay all the legal fees nor the ridiculous late fees. And if you claim the lease is invalid, that will affect you more than it affects us. My advice to you would be to swallow your pride and agree to a reasonable settlement. You will never get a judgement for \$11,000+, and I promise you the legal process will take much longer than you think.

10. You wrote: "For you to immediately discontinue being extremely difficult in every way you can possible think up, and for you to remain compliant with the lease terms without incessant argument after the fact." Have you met yourself? We are both difficult, but I know when to compromise. You do know you are extremely difficult too, right? Nicole, this would always end in some kind of settlement. It makes more sense for you to settle than to drag this out with no certain outcome. In 6 short months we will go, and you will no longer have to deal with me, my annoyingly long emails, my tweets, or my traffic cones.

My counteroffer is:

1. \$7000
2. No attorney fees.
3. No changes to the lease.
4. Parking spots remain the same. (Why are we even discussing parking spots?)
5. Lease ends in April 2020.
6. My attorney will draft the agreement.
7. You can view the apartment to confirm there are no damages...etc.

Best,
Christopher

[Quoted text hidden]



Christopher Bouzy <cbouzy@gmail.com>

Settlement Offer

Nicole Cemelli <ncemelli@gmail.com>

Wed, Aug 7, 2019 at 4:05 PM

To: Christopher <cbouzy@gmail.com>

Christopher,

Unfortunately, I am unable to accept an offer below \$9,345. I had actually only calculated the late fees through mid-June; the total late fees through today's date are far larger than \$2,210. The total amount of late fees will be reflected in the total amount owed submitted for collection.

Regards,
Nicole

[Quoted text hidden]

| | |
|---|--|
| UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY | |
| Caption in Compliance with D.N.J. LBR 9004-1(b) | |
| Christopher Ellis Bouzy 184 Main Street #3 Lodi, NJ 07644(212) 810-0830 Debtor in Possession | |
| In Re: | |
| Christopher Ellis Bouzy | |

Case No.: 19-25881

Chapter: 7

Adv. No.: _____

Hearing Date: 9/24/2019

Judge: Vincent F. Papalia

CERTIFICATION OF SERVICE

1. I, Christopher Ellis Bouzy :
- ☐ represent _____ in this matter.
- ☐ am the secretary/paralegal for _____, who represents _____ in this matter.
- ☒ am the Debtor in this case and am representing myself.
2. On 9/17/2019, I sent a copy of the following pleadings and/or documents to the parties listed in the chart below.
- RESPONSE IN OPPOSITION TO NICOLE CEMELLI'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY
3. I certify under penalty of perjury that the above documents were sent using the mode of service indicated.

Date: 9/17/2019

Signature



| Name and Address of Party Served | Relationship of Party to the Case | Mode of Service |
|---|-----------------------------------|--|
| JOHN SYWILOK 51 MAIN ST HACKENSACK, NJ 07601-7001 | Trustee | <input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> Other _____ (As authorized by the Court or by rule. Cite the rule if applicable.) |
| NICHOLAS FITZGERALD 649 NEWARK AVE JERSEY CITY, NJ 07306-2303 | Attorney for Landlady | <input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> Other _____ (As authorized by the Court or by rule. Cite the rule if applicable.) |
| NICOLE CEMELLI 782 5TH ST SECAUCUS, NJ 07094-3341 | Landlady | <input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> Other _____ (As authorized by the Court or by rule. Cite the rule if applicable.) |
| | | <input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> Other _____ (As authorized by the Court or by rule. Cite the rule if applicable.) |
| | | <input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> Other _____ (As authorized by the Court or by rule. Cite the rule if applicable.) |